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| ART UNIT | PAPER NUMBER |
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3627

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,662

Applicant(s)

TANAKA-ET AL.

Examiner

Andrew J. Fischer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 9-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Restrictions

1. Applicants' election without traverse of Group I (claims 1-8) in the reply filed on November 2, 2004 is acknowledged.
2. Claims 9-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on November 2, 2004.

Acknowledgements

3. This Office Action is written in OACS. Because of this, the Examiner is unable to control formatting, paragraph numbering, font, spelling, line spacing, and/or other word processing issues. The Examiner sincerely apologizes for these errors.
4. All references in this Office Action to the capitalized versions of "Applicants" refers specifically the Applicants of record. References to lower case versions of "applicant" or "applicants" refers to any or all patent "applicants." Unless expressly noted otherwise, references to "Examiner" in this Office Action refers to the Examiner of record while reference to or use of the lower case version of "examiner" refers to examiner(s) generally.
5. This application in an image file wrapper ("IFW") application. Applicant(s)' response is therefore broken down before being placed into the IFW system (*i.e.* claims, remarks, drawings, etc. are separated and independently scanned). To ensure proper handling by the Examiner, the Examiner highly recommends Applicants place the application serial no (*e.g.* 06/123,456) in a

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header or footer (or other appropriate area) of *each* page submitted. At the very least, the Examiner highly recommends this practice for all pages listing the claims.

Specification

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Some examples follow. See 37 C.F.R. §1.75(d)(1), MPEP §608.01(o), and MPEP §2181. Correction of the following is required:

- a. The “means for recording said comment” as recited in claim 2-4, 6-8.
- b. The “means for displaying” as recited in claim 5.

Claim Rejections - 35 USC §112 2nd Paragraph

7. The following is a quotation of the 2nd paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2-8 are rejected under 35 U.S.C. §112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with errors. Some examples follow:

9. In claim 2-4, 6-8, Applicants have failed to clearly link and associate the “means for recording said comment” to any corresponding structure.

10. In claim 5, Applicants have failed to clearly link and associate the “means for displaying” to any corresponding structure.

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Claim Rejections - 35 USC §102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States. . . .

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-8, as understood by the Examiner, are rejected under 35 U.S.C. §102(e) as being anticipated by McCollom et. al. (U.S. 2002/0010623 A1)(“McCollom”). McCollom discloses an e-commerce system 70 with a server and user terminals 12 or 13 whereby the user attaches notes to items placed in the shopping cart.

Claim Rejections - 35 USC §103

13. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-8, as understood by the Examiner, are rejected under 35 U.S.C. §103(a) as being unpatentable over Wong in view of McCollom. Wong exemplifies an e-commerce system. Wong does not directly disclose taking notes on items in the shopping cart.

McCollom teaches taking notes based upon objects placed in the shopping cart.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Wong as taught by McCollom and include McCollom's note taking feature. Such a modification would have helped the user track his or her purchases.

15. Additionally, if the sever structure was not inherent, it too would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wong to include the claimed server structure. It is the Examiner's position that absent evidence of new or unexpected results, it is not inventive in terms of patentability to take one or more servers ($S_1, S_2, S_3, \dots S_N$) which perform one or more tasks ($T_1, T_2, T_3, \dots T_N$) and add (or subtract) an additional number of servers (X) to perform all or part of the same tasks by allocating the tasks between the various servers (*i.e.* S_1 and S_{N+1} perform T_1 ; S_2 and S_{N+2} perform T_2 ; S_3 and S_{N+3} perform T_3 ; ... while S_N and S_{N+X} perform T_N). The prior art is replete with examples showing why such scaling (both increasing and decreasing the number of servers) is desirable.¹

In other words, a modification increasing the number of servers (*e.g.* having two servers perform a task previously performed by one server) is analogous to making functions, structures,

¹ See *e.g.* Watson (U.S. 6,223,209 B1) disclosing distributed satellite world wide web servers containing identical information placed strategically throughout the Internet so as to be close to all potential clients to help reduce traffic bottlenecks; Midgely et. al. (U.S. 5,592,611 A) disclosing additional servers as a stand-in for a failed server so that client service requests are transparent to the user; Kriegsman (U.S. 6,370,580 B2) disclosing multiple servers as secondary web servers to optimize file transfers; Burns et. al. (U.S. 6,298,373 B1) disclosing cache servers which download content during off-peak hours to reduce traffic bottlenecks; Stiles (U.S. 6,219,692 B1) which discloses sending essentially identical tasks to multiple servers with differing processing loads to find the most preferred server provider; Zdepski et. al. (U.S. 5,825,884) disclosing an transactional server for TV networks; *How Networks Work*, Chapter 17 describing how sever based structures benefit from economies of scale in addition to offering security, excellent data management, fast response, and room for expansion; and *How the Internet Works*, Chapter 44 implementing a server based architecture in Internet e-commerce.

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or actions separable. It is the Examiner's position that when the difference between the claimed invention and the prior art is that the prior art does not disclosed an element as separable, as a matter of law, it would have been obvious to one having ordinary skill in the art to make the element separable. See MPEP §2144.04 V. C. and *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961). As noted above, it is desirable to allocate the server tasks to various servers to help reduce bandwidth bottlenecks and to help increase the benefits from economies of scale in addition to offering increased security, excellent data management, fast response, and room for expansion. Moreover, it is old and well known in the art that storage mediums are configured as databases. See *e.g.* Wolfe et. al. (U.S. 6,282,517 B1) ("Wolfe").

After careful review of the specification, the Examiner finds that Applicants have not asserted any new or unexpected results regarding their hardware configuration (and the software running their hardware configuration) of their server system. Absent such new or unexpected results, such modifications either increasing or decreasing the number of servers or computers or even reassigning tasks to different server(s) or computers would have helped maintain benefits from economies of scale in addition to offering increased security, excellent data management, fast response, and room for expansion while reducing both operating and capital costs.

16. As a starting point and in reference to electronic commerce systems, it is the Examiner's factual determination that web based electronic commerce systems are old and very well known in the art. Evidence to support this finding includes *e.g.* Chen et. al. (U.S. 5,590,197 A).

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17. After careful review of the specification and prosecution history, the Examiner is unaware of any desire—either expressly or implicitly—by Applicants to be their own lexicographer and to define a claim term to have a meaning other than its ordinary and accustomed meaning. Therefore, the Examiner starts with the heavy presumption that all claim limitations are given their ordinary and accustomed meaning. See *Bell Atlantic Network Services Inc. v. Covad Communications Group Inc.*, 262 F.3d 1258, 1268, 59 USPQ2d 1865, 1870 (Fed. Cir. 2001) (“[T]here is a heavy presumption in favor of the ordinary meaning of claim language as understood by one of ordinary skill in the art.”); *CCS Fitness Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366, 62 USPQ2d 1658, 1662 (Fed. Cir. 2002) (There is a “heavy presumption that a claim term carries its ordinary and customary meaning.”). See also MPEP §2111.01 and *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).²

In accordance with the ordinary and accustomed meaning presumption, during examination the claims are interpreted with their “broadest reasonable interpretation . . .” *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). See also MPEP §2111.

However, if Applicants disagree with the Examiner and have either (a) already used lexicography or (b) wish to use lexicography and therefore (under either (a) or (b)) desire a claim limitation to have a meaning other than its ordinary and accustomed meaning, the Examiner respectfully requests Applicants in their next response to expressly indicate³ the claim limitation

² It is the Examiner’s position that “plain meaning” and “ordinary and accustomed meaning” are synonymous. See e.g. *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001) (“[A]ll terms in a patent claim are to be given their plain, ordinary and accustomed meaning . . .”).

³ “Absent an *express intent* to impart a novel meaning, terms in a claim are to be given their ordinary and accustomed meaning. [Emphasis added.]” *Wenger Manufacturing Inc. v. Coating*

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at issue and to show where in the specification or prosecution history the limitation is defined.

Such definitions must be clearly stated in the specification or file history. *Bell Atlantic*, 262 F.3d at 1268, 59 USPQ2d at 1870, (“[I]n redefining the meaning of particular claim terms away from the ordinary meaning, the intrinsic evidence must ‘clearly set forth’ or ‘clearly redefine’ a claim term so as to put one reasonably skilled in the art on notice that the patentee intended to so redefine the claim term”).⁴ The Examiner cautions that no new matter is allowed.

Applicants are reminded that failure by Applicants in their next response to properly traverse this issue in accordance with 37 C.F.R. §1.111(b) or to be non-responsive to this issue entirely will be considered a desire by Applicants to forgo lexicography in this application and to continue having the claims interpreted with their broadest reasonable interpretation.⁵

Mach. Sys., Inc., 239 F.3d 1225, 1232, 57 USPQ2d 1679, 1684 (Fed. Cir. 2001) (citations and quotations omitted). “In the absence of an *express intent* to impart a novel meaning to claim terms, an inventor’s claim terms take on their ordinary meaning. We indulge a heavy presumption that a claim term carries its ordinary and customary meaning. [Emphasis added.]” *Teleflex Inc. v. Ficosa North America Corp.*, 299 F.3d 1313, 1325, 63 USPQ2d 1374, 1380 (Fed. Cir. 2002) (citations and quotations omitted).

⁴ See also *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582, 39 USPQ2d 1573, 1576 (Fed. Cir. 1996), (“[A] patentee may choose to be his own lexicographer and use terms in a manner other than their ordinary meaning, *as long as* the special definition of the term is *clearly stated* in the patent specification or file history. [Emphasis added.]”); *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998) (“Such special meaning, however, must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention.”). See also MPEP §2111.01, subsection titled “Applicant May Be Own Lexicographer” and MPEP §2173.05(a) titled “New Terminology.”

⁵ See 37 C.F.R. §1.104(c)(3) which states in part: “the examiner may rely upon admissions by applicant . . . as to *any matter* affecting patentability [Emphasis added.]”

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Additionally, it is the Examiner's position that the above requirements are reasonable.⁶ Unless expressly noted otherwise by the Examiner, the preceding discussion on claim interpretation principles applies to all examined claims currently pending.

18. To the extent that the Examiner's interpretations are in dispute with Applicants' interpretations, the Examiner hereby adopts the following definitions—under the broadest reasonable interpretation standard—in all his claim interpretations.⁷ Moreover, while the following list is provided in accordance with *In re Morris*, the definitions are a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language.⁸ Finally, the following list is not intended to be exhaustive in any way:

Server: "2. On the Internet or other network, a computer or program that responds to commands from a client." Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997.⁹ **Client:** "3. On a local area network or Internet, a computer that accesses shared network

⁶ The Examiner's requirements on this matter are reasonable on at least two separate and independent grounds. First, the Examiner's requirements are simply an express request for clarification of how Applicants intend their claims to be interpreted so that lexicography (or even an *attempt* at lexicography) by Applicants is not inadvertently overlooked by the Examiner. Second, the requirements are reasonable in view of the USPTO's goals of compact prosecution, productivity with particular emphasis on reductions in both pendency and cycle time, and other goals as outlined in the USPTO's The 21st Century Strategic Plan, February 3, 2003 available at www.uspto.gov/web/offices/com/strat21/index.htm (last accessed January 5, 2005).

⁷ While most definitions are cited because these terms are found in the claims, the Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

⁸ See e.g. *Brookhill-Wilk 1 LLC v. Intuitive Surgical Inc.*, 334 F.3d 1294, 1300, 67 USPQ2d 1132, 1137 (Fed. Cir. 2003) (abstract dictionary definitions are not alone determinative; "resort must always be made to the surrounding text of the claims in question").

⁹ Based upon Applicants' disclosure, the art of record, and the knowledge of one of ordinary skill in this art as determined by the factors discussed in MPEP §2141.03 (where practical), the

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resources provided by another computer (called a server).” *Id. Computer*: “Any machine that does three things: accepts structured input, processes it according to prescribed rules, and produces the results as output.” *Id.*

Internet “The worldwide collection of networks and gateways that use the TCP/IP suite of protocols to communicate with one another. At the heart of the Internet is a backbone of high-speed data communication lines between major nodes or host computers, consisting of thousands of commercial, government, educational, and other computer systems, that route data and messages.” *Id.*

19. Additionally, the Examiner respectfully reminds Applicants that: “A system is an apparatus.” *Ex parte Fressola* 27 USPQ2d 1608, 1611 (B.P.A.I. 1993)(citations omitted).

Additionally, “[c]laims in apparatus form conventionally fall into the 35 U.S.C. §101 statutory category of a ‘machine.’” *Ex parte Donner*, 53 USPQ2d 1699, 1701 (B.P.A.I.

1999)(unpublished), (Paper No. 34, page 5, issued as U.S. Patent 5,999,907). Therefore, it is the Examiner’s position that Applicants’ system claims are “product,” “apparatus,” or more specifically, “machine” claims.¹⁰

Examiner finds that the *Microsoft Press Computer Dictionary* is an appropriate technical dictionary known to be used by one of ordinary skill in this art. See *e.g. Altiris Inc. v. Symantec Corp.*, 318 F.3d 1363, 1373, 65 USPQ2d 1865, 1872 (Fed. Cir. 2003) where the Federal Circuit used the *Microsoft Press Computer Dictionary* (3d ed.) as “a technical dictionary” to define the term “flag.” See also *In re Barr*, 444 F.2d 588, 170 USPQ 330 (CCPA 1971)(noting that its appropriate to use technical dictionaries in order to ascertain the meaning of a term of art) and MPEP §2173.05(a) titled ‘New Terminology.’

¹⁰ Products may be either machines, manufactures, or compositions of matter. MPEP §2106 IV B. 2 (a).

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20. In light of Applicants' choice of 'machine' or 'product' claims, Applicants are also reminded that functional recitations using the word "for," "adapted to," or other functional terms (*e.g.* see claim 1 which recites "for recording a comment") have been considered but are given little patentable weight¹¹ because they fail to add any structural limitations and are thereby regarded as intended use language. A recitation of the intended use in a product claim must result in a structural difference between the claimed product and the prior art in order to patentably distinguish the claimed product from the prior art. If the prior art structure is capable of performing the intended use, then it reads on the claimed limitation. *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) ("The manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself."); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). See also MPEP §§ 2114 and 2115. Unless expressly noted otherwise by the Examiner, the claim interpretation principles in this paragraph apply to all examined claims currently pending.

¹¹ See *e.g. In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983)(stating that although all limitations must be considered, not all limitations are entitled to patentable weight.).

Conclusion

21. References considered pertinent to Applicants' disclosure are listed on form PTO-892.

22. The following two (2) citations to the Manual of Patent Examining Procedure ("MPEP") apply to this Office Action: MPEP citations to Chapters 100, 200, 500, 600, 700, 1000, 1100, 1300, 1400, 1500, 1700, 1800, 2000, 2100, 2200, 2500, 2600, and 2700 are from the MPEP 8th Edition, Rev. 2, May 2004. All remaining MPEP citations are from MPEP 8th Edition, August 2001.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

24. In accordance with *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), the Examiner finds that the references How Computers Work Millennium Ed. by Ron White; How Networks Work, Millennium Ed. by Frank J. Derfler et. al.; and How the Internet Works, Millennium Ed. by Preston Gralla are additional evidence of what is basic knowledge or common sense to one of ordinary skill in this art. Each reference is cited in its entirety. Moreover, because these three references are directed towards beginners (see e.g. "User Level Beginning . . ."), because of the references' basic content (which is self-evident upon review of the references), and after further review of the entire application and all the art now of record in conjunction with the factors as discussed in MPEP §2141.03 (where practical), the Examiner

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finds that these three references are primarily directed towards those of low skill in this art.

Because these three references are directed towards those of low skill in this art, the Examiner finds that one of ordinary skill in this art must—at the very least—be aware of and understand the knowledge and information contained within these three references.

25. It is the Examiner's factual determination that all limitations in claims 1-8 have been considered and are either disclosed or inherent in the references as discussed above.

Furthermore, the inherent features are established by a preponderance of the evidence. *In re Epstein*, 32 F.3d 1559, 1564, 31 USPQ2d 1817, 1820 (Fed. Cir. 1994) ("Preponderance of the evidence is the standard that must be met by the PTO in making rejections." (citations and quotations omitted)).

26. In accordance with the USPTO's goals of customer service, compact prosecution, and reduction of cycle time, the Examiner has made every effort to clarify his position regarding claim interpretation and any rejections or objections in this application. Furthermore, the Examiner has provided Applicants with notice—for due process purposes—of his position regarding his factual determinations and legal conclusions. If Applicants disagree with any factual determination or legal conclusion made by the Examiner in this Office Action whether expressly stated or implied,¹² the Examiner respectfully reminds Applicants to properly traverse the Examiner's position(s) in accordance with 37 C.F.R. §1.111(b) in their next response. By addressing these issues now, matters where the Examiner and Applicants agree can be eliminated allowing the Examiner and Applicants to focus on areas of disagreement (if any) with the goal towards allowance in the shortest possible time. If Applicants have any questions regarding the

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Examiner's positions or have other questions regarding this communication or even previous communications, Applicants are strongly encouraged to contact Examiner Andrew J. Fischer whose telephone number is (703) 305-0292. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's immediate supervisor, Robert Olszewski, can be reached at (703) 308-5183. To respond to this Office Action by facsimile, fax to (703) 872-9306.



Andrew J. Fischer
Patent Examiner
Art Unit 3627

AJF
January 5, 2005

¹² *E.g.*, if the Examiner rejected a claim under §103 with two references, although not directly stated, it is the Examiner's implied position that the references are analogous art.